IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION (LODG.) NO.2144 OF 2007

Ashwim Shamji Valotia ..Petitioner.

Vs.

Julio Rebeiro and another ..Respondent.

....

Mr. V.A. Thorat with Mr. A.R. Pandey for the Petitioner.

Mr. K.R. Belosey, GP for the State – Respondents 2 and 3

....

CORAM: **SMT. RANJANA DESAI &**
DR. D.Y. CHANDRACHUD, JJ.

12th October, 2007.

P.C. :

1. By the impugned order the Chief Information Commissioner has ordered that information should be given to the Applicant free of costs and the Public Information Officer should pay a penalty of Rs.1,000/- for his lapse.

2. We have heard counsel appearing for the Petitioner at some length. So far as the first direction that information be given to the Applicant is concerned, counsel appearing for the Petitioner says that the Petitioner has no grievance about it. The said

information can be supplied. Learned counsel, however, drew our attention to proviso to Section 20 of the Right to Information Act, 2005 and contended that the order imposing penalty on the Petitioner could not have been passed without hearing the Petitioner. We find substance in this submission. Hence, in our opinion, the direction to pay the penalty of Rs.1,000/- needs to be set aside and the Chief Information Commissioner must be directed to hear the Petitioner on imposition of penalty. In the facts and circumstances of the case, in our opinion, the following order should meet the ends of justice :

3. The impugned order to the extent it directs the Petitioner to pay the penalty of Rs.1,000/- is set aside. The Chief Information Commissioner is directed to give hearing to the Petitioner. Counsel appearing for the Petitioner states that the Petitioner will appear before the Chief Information Commissioner on 22nd October, 2007. We direct the Chief Information Commissioner to give to the Petitioner a reasonable opportunity of being heard and pass an appropriate order as regards penalty. We make it clear

that so far as sub-clause (a) of the operative part of the impugned order is concerned, it is confirmed.

The Petition is accordingly disposed of.

(SMT. RANJANA DESAI, J.)

(DR. D.Y. CHANDRACHUD, J.)